

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ROBERT SHARBER,

Civ. No. 07-6041-HO

Plaintiff,

ORDER

v.

QWEST CORPORATION,

_____Defendant.

Defendant filed a motion to dismiss plaintiff's claim for reckless infliction of emotional distress for failure to state a claim upon which relief may be granted. The parties dispute whether this claim is cognizable under Oregon common law. Judges in this district have held that it is not. See e.g. Snead v. Metro Prop. and Cas. Inc. Co., 909 F. Supp. 775 (D. Or. 1996); Navarette v. Nike, Inc., 2007 WL 221865 (D. Or). If necessary, the court will resolve this interesting legal issue at a later stage in the case. Defendant's motion is therefore denied without prejudice to defendant to raise the issue of

cognizability of this claim at the summary judgment stage, or at trial.

Conclusion

Based on the foregoing, defendant's motion to dismiss [#17] is denied.

IT IS SO ORDERED.

DATED this 21st day of August, 2007.

s/ Michael R. Hogan
United States District Judge